

Congress of the United States

Washington, DC 20515

January 29, 2024

The Honorable Gina M. Raimondo
Secretary of Commerce
U.S. Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

Dear Secretary Raimondo:

We write to express our significant concerns regarding the review of Socialist Republic of Vietnam's (Vietnam) non-market economy ("NME") status under U.S. trade laws. It is very clear that Vietnam does not meet the procedural requirements for a changed circumstance review, nor does it meet the necessary substantive criteria the Department of Commerce (Commerce) must consider for it to be designated a market economy.

In September of this year, the government of Vietnam sent a letter to Commerce requesting a Changed Circumstances Review (CCR) pursuant to a raw honey investigation on imports from Vietnam. The issue of Vietnam's interest in market economy status was also referenced in the Joint Leaders' Statement issued in conjunction with the visit of President Biden to Vietnam in September 2023.¹ Under the Tariff Act of 1930, as amended (Tariff Act), a nonmarket economy country is determined by Commerce not to operate on market principles. To that end, section 771(18)(B) of the Tariff Act identifies six factors Commerce shall consider in any request for a CCR:

1. The extent to which the currency is convertible into the currency of other countries;
2. The extent to which wage rates are determined by free bargaining between labor and management;
3. The extent to which joint ventures or other investments by firms of other countries are permitted in the country;
4. The extent of government ownership or control of the means of production;
5. The extent of government control over the allocation of resources and over the price and output decisions of enterprises; and
6. Such other factors as the administering authority considers appropriate.

Analysis under the above six statutory factors reveals that Vietnam does not meet the requirements for market economy treatment:

1. **Lack of Foreign Currency Convertibility:** Vietnam's currency is not fully convertible into other currencies, and is subject to exchange rate controls by the government-controlled central bank. Recent placement on the U.S. Department of the Treasury's (Treasury) "watch list" for currency manipulation reinforces this concern.²
2. **Wage Rates Determined by Free Bargaining Between Labor and Management:** Wage rates are influenced by the authoritarian government and state-owned enterprises (SOEs) are prevalent in many sectors. The U.S. Department of State (State) also notes significant deficiencies in enforcing labor rights,

¹ [U.S. White House, "Joint Leaders' Statement: Elevating United States-Vietnam Relations to a Comprehensive Strategic Partnership"](#), September 11, 2023.

² [U.S. Department of Treasury, "Report to Congress: Macroeconomic and Foreign Exchange Policies of Major Trading Partners of the United States"](#), November 2023.

the prevalence of SOEs, and a substantial informal sector. Workers cannot form independent unions and the state maintains control over the only trade union available, the Vietnam General Confederation of Labor (VGCL).³

3. **Restrictions on Joint Ventures and Investment:** Foreign Direct Investment (FDI) remains restricted and subject to numerous regulations, controls, and approvals by the government. Additionally, any investment entering Vietnam is benefiting the People’s Republic of China (PRC), which is a key supplier of nonmarket inputs central to Vietnam’s manufacturing base and used to produce unfairly traded exports that injure U.S. industries and workers.⁴
4. **Government Control Over Means of Production:** The economic importance of SOEs in Vietnam remain significant by international standards. The Organization for Economic Co-operation and Development (OECD) found that SOEs are treated “favourably” in all aspects by the government. Sectoral ministries and local governments give their affiliated SOEs privileges, such as access to capital, natural resources, land, and human resources.⁵
5. **Government Control Over Allocation of Resources:** Vietnam maintains extensive price control across its economy and unfairly promotes its extensive SOEs through full ownership of the banking sector.⁶
6. **Other Factors:** As there are 25 AD/CVD orders against Vietnam and multiple others pending investigation, the granting of market economy status to Vietnam poses significant threats to U.S. industries and workers.⁷ Additionally, reports from the U.S. Department of Labor (DOL) and State indicate that child labor, forced labor, debt bondage, and violations of other internationally recognized labor standards remain prevalent in Vietnam.^{8,9} Further, other factors indicating a lack of market orientation include corruption, weak rule of law, inadequate protection of property rights, and judicial corruption.¹⁰

The evidence that Vietnam remains an authoritarian country with state control over critical aspects of the economy is overwhelming. Our own government has completed extensive research on Vietnam's economic policies, labor practices, and its role as an investment conduit for China. For example, as outlined above, Treasury, State, DOL, and your Department have all provided a copious amount of credible and in-depth information on Vietnam’s market-distorting practices. Clearly, Vietnam does not meet any six of the statutory criteria that Commerce must consider under a CCR request.

Commerce must protect the efficacy of our nation’s trade laws by maintaining Vietnam's nonmarket economy status. Any premature graduation to market economy status will exacerbate existing economic trade distortions, weaken trade remedies for U.S. workers and industries, erode the U.S. manufacturing base, reinforce Vietnam's role as a conduit for an influx of unfairly traded Chinese goods that evade established trade laws and circumvent regulations such as the Uyghur Forced Labor Prevention Act ("UFLPA"), and undermine U.S. supply chain resiliency.

³ [U.S. Department of State, “2022 Country Reports on Human Rights Practices: Vietnam”, Accessed January 23, 2024.](#)

⁴ [U.S. Department of State, “2023 Investment Climate Statements: Vietnam”, Accessed January 23, 2024.](#)

⁵ [OECD, “OECD Review of the Corporate Governance of State-Owned Enterprises in Viet Nam: Overview of the Vietnamese state-owned sector”, Accessed January 23, 2024.](#)

⁶ [OECD, “OECD Review of the Corporate Governance of State-Owned Enterprises in Viet Nam: Executive Summary”, Accessed January 23, 2024.](#)

⁷ [U.S. International Trade Administration, “Data Visualization – ADCVD Proceedings”, Accessed January 23, 2024.](#)

⁸ [U.S. Department of Labor, “2022 List of Goods Produced by Child Labor or Forced Labor”, September 2022.](#)

⁹ [U.S. Department of State, “2022 Country Reports on Human Rights Practices: Vietnam”, Accessed January 23, 2024.](#)

¹⁰ [U.S. Department of State, “2023 Investment Climate Statements: Vietnam”, Accessed January 23, 2024.](#)

We appreciate your attention to this matter and look forward to your leadership in ensuring our trade laws are not compromised by unwarranted and unfounded requests.

Sincerely,



Rosa L. DeLauro
Member of Congress



Donald Norcross
Member of Congress



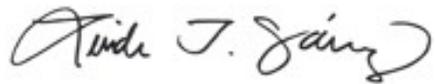
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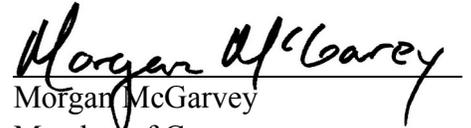
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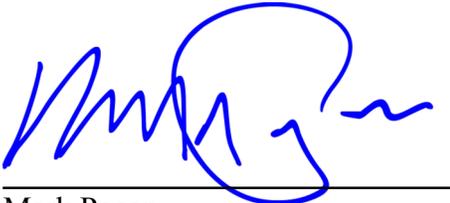
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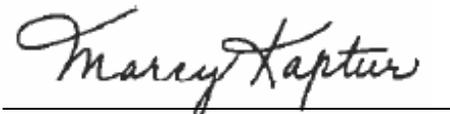
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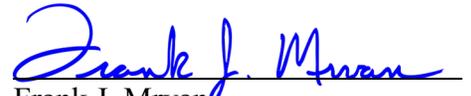
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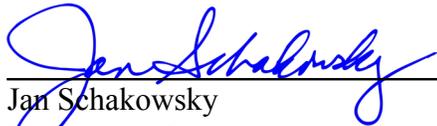
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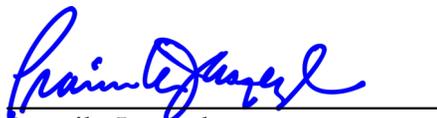
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